

IN THE U.S. PATENT AND TRADEMARK OFFICE

In re application of

Pierre GIROD et al.

Conf. 5761

Application No. 10/592,933

Group 2612

Filed January 26, 2007

Examiner Eustaquio, Cal J.

METHOD AND DEVICE FOR DETECTING A PASSAGE
ASSOCIATED WITH AN ACCESS DOOR

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Assistant Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Sir:

Applicant requests a pre-appeal brief review of the
final rejection in the above-identified application.
No amendments are being filed with this request.

A Notice of Appeal is filed concurrently herewith.

The review is requested for the reasons advanced on the
attached sheets.

Respectfully submitted,

YOUNG & THOMPSON

 /Jeremy G. Mereness/
Jeremy G. Mereness, Reg. No. 63,422
209 Madison Street
Suite 500
Alexandria, VA 22314
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

JGM/fb

REASONS IN SUPPORT OF REQUEST FOR REVIEW

A pre-appeal brief review is respectfully requested of the final rejection of claims 42-80, claims 42 and 70 being independent. The independent claims were finally rejected in the Official Action of December 1, 2010 as being unpatentable under 35 USC 103(a) over Viljoen (EP 0559357; "VILJOEN") in view of Risi (U.S. Pub. No. 2002/0154012; "RISI").

It is respectfully submitted that the rejections of claims 42 and 70 include at least a clear factual error, or in the alternative, a clear legal error, as explained below.

As to claim 42, the final rejection offers VILJOEN and RISI as teaching or suggesting all the features recited. However, it is respectfully submitted that none of references applied by the final rejection, individually or in combination, teach or suggest (i) "dividing the profile into zones which are processed separately", or (ii) "filtering zones of said profile in order to mask zones or to eliminate interference zones", as recited by claim 42.

On page 3 of the final rejection, VILJOEN is cited as teaching the claimed feature (i) "dividing the profile into zones which are processed separately". The final rejection states that VILJOEN discloses this feature because VILJOEN discloses the use of a series of infrared cells to determine the graph of different objects which can meet

different height criteria, which would meet the claimed feature. It is respectfully submitted that this conclusion rests on an over-interpretation of VILJOEN, and Applicant respectfully disagrees.

At this point, a review of the primary reference is helpful. VILJOEN discloses a monitoring apparatus and method for monitoring a zone. The monitoring method comprises the following steps (page 2, lines 10-13):

- transmitting a plurality of beams between at least two locations defining extremities of the zone,
- detecting interruptions of the beams by an object moving between the two locations,
- generating a graph of interruptions relative to time,
- comparing the graph generated with a set of preselected graphs representative of known objects.

VILJOEN also discloses means dedicated to carry out these steps.

The comparison of the graph to a set of preselected graphs may be carried on by a neural network (page 3, lines 29-51) which is disclosed as being the most successful compared to statistical methods.

The final rejection states that VILJOEN discloses (i) "dividing the profile into zones which are processed separately" because VILJOEN discloses the use of a series of

infrared cells to determine the graph of different objects which can meet different height criteria.

However, in the claimed feature (i) it is the determined profile which is divided into zones, i.e. the profile already determined by the detection means, as recited in the first step of claim 41.

In contrast, VILJOEN teaches the cells are used to determine the graph of the person, not to analyze it. The determined profile of an object is described as a "graphical" or "graphic representation" (e.g., page 3 line 42-43). VILJOEN clearly teaches that the determined profile, i.e. "the graphical representation", "is fed to the classifier" as a whole (page 3, line 45). "The graphical representation is [then] compared with preselected graphical representations," (page 3 lines 46-17). VILJOEN's graphical representation, i.e. the determined profile, is not divided in to zones which are processed separately.

Further as to claim 42, VILJOEN fails to disclose the claimed feature (ii) "filtering zones of said profile in order to mask zones or to eliminate interference zones". In the last paragraph of page 3, the final rejection concedes that this feature is not explicitly disclosed in VILJOEN, but states that this feature is nevertheless disclosed because VILJOEN includes elimination of power line glitches in paragraph 34. Again, this is a misinterpretation of VILJOEN and Applicant Respectfully disagrees.

VILJOEN states "It furthermore allows the user to eliminate false alarms produced by spurious causes like power-line glitches," (page 6, lines 9-10; emphasis added). However, this disclosure only describes that false alarms, and not power-line glitches, are eliminated. Further, considering the paragraph as a whole, VILJOEN teaches that what eliminates the false alarms due to power-line glitches is "the optimal use of data gathered by an optical beam fence in deciding on the issuing and the classification of alarm messages," (page 6, lines 8-9; emphasis added). That is, there is no need to eliminate power-line glitches and even less filter zones of the graph representation to do so.

It is therefore respectfully submitted that VILJOEN does not teach either of features (i) or (ii). The secondary reference RISI also does not teach these features. It is respectfully submitted that independent claim 42 clearly emphasize these distinctions with ample particularity, and so is patentable over VILJOEN in view of RISI.

Accordingly, it is respectfully submitted that the rejection of claim 42 is factual and legal error, as the references applied do not teach suggest all the features recited by this claim, and therefore does not render this claim obvious in view of Section 103.

It is further respectfully submitted that independent claim 70 is patentable over VILJOEN and RISI for the same reasons set forth above as to claim 42. Claim 70

recites a device comprising means for filtering zones of said profile in order to mask them or to eliminate interference zones, and means for dividing said profile into zones which are processed separately, neither of which are taught or suggested by VILJOEN in view of RISI

It is therefore respectfully submitted, based on the reasons set forth above, that the final rejection of claims 42 and 70 under 35 USC 103(a) is improper, and that claims 42 and 70 are patentable. It is also respectfully submitted that the claims depending from claims 42 and 70 are patentable at least for depending from respective patentable parent claims. Therefore, it is respectfully submitted that the obviousness rejections of record under Section 103 cannot be sustained and must be reversed; such is respectfully requested.